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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/977,451	10/15/2001	Horst Filipp	FILIPP	3220
20151	7590	05/03/2004	EXAMINER	
HENRY M FEIEREISEN, LLC 350 FIFTH AVENUE SUITE 4714 NEW YORK, NY 10118			SAETHER, FLEMMING	
			ART UNIT	PAPER NUMBER
			3677	

DATE MAILED: 05/03/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/977,451

Applicant(s)

FILIPP, HORST

Examiner

Flemming Saether

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 February 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) 8-18 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 and 19-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

Election/Restrictions

Claims 8-18 remain withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there currently being no allowable generic or linking claim.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1-7 and 19-22 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. In the claims as amended and as argued, it is unclear how the spreader dowel would be capable of threading into a smaller internally threaded cylindrical zone. It appears that the threads of the screw would be incapable of engagement with the smaller diameter zone particularly since there is shown to be an abrupt transition to the smaller diameter zone.

Claim Rejections - 35 USC § 102

Claims 1- 5 are rejected under 35 U.S.C. 102(b) as being anticipated by Fischer (DE 39 27 779). Fischer discloses dowel comprising a dowel component (1) having a slotted (at 4) expansion zone (3) with a tapering internal thread which receives a

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spreader screw (2) that is shorter than an internal thread. The internal thread (14) at an end of the dowel is for receiving a fastening screw. There is further shown an internal thread of the same nominal diameter as the expansion screw (at 8) and, the pocket is read as the enlarged portion (at 14). In Fischer, the expansion zone is considered cylindrical based on its external surface and even though tapering the thread diameter is smaller along its entire length than the screw.

Claim Rejections - 35 USC § 103

Claims 1-5 are alternatively rejected under 35 U.S.C. 103(a) as being unpatentable over Fischer in view of Pleister (US 1,248,003). Fischer discloses dowel comprising a dowel component (1) having a slotted (at 4) expansion zone (3) with an internal thread which receives a spreader screw (2) that is shorter than an internal thread. The internal thread (14) at an end of the dowel is for receiving a fastening screw. There is further shown an internal thread of the same nominal diameter as the expansion screw (at 8) and, the pocket is read as the enlarged portion (at 14). Fischer does not disclose an internal constant diameter in the expansion zone. Pleister discloses a dowel wherein an expansion zone includes a constant internal diameter portion (page 2, lines 39-43). At the time the invention was made, it would have been obvious for one of ordinary skill in the art to provide expansion zone of Fischer with a constant diameter internal diameter as disclosed in Pleister. The constant internal diameter in the expansion would allow the dowel to be used optimally in a bore of constant diameter which is basically easier and more economical to drill.

Claims 19, 20 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fischer or Fischer as modified by Pleister in view of Lind (US 5,531,535). Fischer discloses an expansion dowel as described above but, does not disclose pair of dowels. Lind teaches to a pair of the same dowels (4 and 5) used together with a common fastening member (6). At the time the invention was made, it would have been obvious for one of ordinary skill in the art to provide a pair of the dowels disclosed in Fischer or modified Fischer connected with a common fastening screw in order to secure together two members each having a blind hole as taught in Lind. Such an arrangement would provide an optimal application of the Fischer dowel. The combination with the handle is simply an intended use.

Allowable Subject Matter

Claims 6, 7 and 21 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

In response to Remarks:

As discussed in the above rejection, the claims continue to read on the claims even as amended. Furthermore, with commenting on the "prosecution history estoppel", if the claims are amended to require the expansion zone to have a constant internal diameter it is the examiner's opinion that such would be further limiting.

Applicant's arguments regarding the prior art rejections have been considered but, in view of the above rejections no further response is believed necessary.

It should however be noted that the new rejection involving the combination of Fischer and Pleister was not required and was included for applicant's benefit to advance the prosecution of this application and as such will not effect the finality of this Office Action.

Conclusion

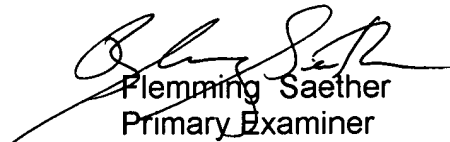
Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Flemming Saether whose telephone number is 703-308-0182. The examiner can normally be reached on Monday through Friday.

The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Flemming Saether
Primary Examiner
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